

# WOMEN AND THE LAW



# EMPLOYMENT



## TABLE OF CONTENTS

	PAGE
INTRODUCTION .....	1
CONTRACT OF EMPLOYMENT .....	2
WAGES .....	3
DISMISSAL .....	4
RETIREMENT .....	6
RETRENCHMENT .....	7
SICK LEAVE .....	7
MATERNITY LEAVE .....	7
CHILD CARE.....	9
DISCRIMINATION .....	9
DOMESTIC EMPLOYEES .....	10
WORKMAN'S COMPENSATION .....	11
PROVIDENT FUND .....	12
INCOME TAX .....	13
WORKS COUNCIL .....	13
TRADE UNIONS .....	13



## INTRODUCTION

As a woman who is working for wages, there are important laws which affect you. This booklet is designed to answer some of your questions about these laws. It does not explain the laws in detail. If you need more information, you should contact any of the following:

- \* Your Works Council at work
- \* The Labour Department

Headquarters	22971	or	22966
Manzini office	52792		
Nhlangano office	78250		
Piggs Peak office	71110		
Siteki office	34180		
- \* Legal Aid Clinic, Family Life Association

P.O. Box 1051	P.O. Box 1286
MANZINI	MBABANE
Tel: 53586	Tel: 46680
- \* Your Union
- \* Swaziland Federation of Trade Unions

Inkululeko Building, Nkoseluhlaza Street  
P.O. Box 1158, MANZINI Tel: 53789

## REMEMBER

There are many laws which relate to your work. In addition to the law, you may also make an agreement with your employer, your Works Council may make an agreement with your employer or the "Joint Industrial Council" (your employer and your union) may make an agreement. These agreements also regulate your work. It is the purpose of this booklet to tell you the MINIMUM requirements of the law. You should find out which SPECIFIC requirements apply at your workplace.

For instance, the law may say you are entitled to 2 weeks holiday leave, but a "collective agreement" between your employer and your union may say you are entitled to 3 weeks. It is up to you to find out whether there are other rules at your Works Council which may help you. Ask your Works Council representative, or call the Labour Department.

### CONTRACT OF EMPLOYMENT

When you first agree to work for an employer, you make a contract of employment. This contract may be oral or written. Any written contract should be read carefully and, if you agree with it then sign. If the contract is not written, then you are still entitled to know the following things:

1. How much you will be paid.
2. What hours you will work.
3. What kind of work you will do.
4. What sick leave and vacation leave you will get.
5. What maternity leave you will get.
6. How long you will work, if it is a short-term contract.

Your employer cannot vary this contract without your permission.

In addition to this contract of employment, the employment laws of Swaziland give you certain rights.

## WAGES

Your wage slip must include the details of your wages including the number of hours paid at ordinary time and at over time, gross wages (wages before deductions) and amounts and reasons for deductions. Your employer may deduct the following from your wages:

- \* Any money he has advanced to you
- \* Taxes (PAYE)
- \* Graded Tax
- \* Contribution to the National Provident Fund
- \* Cost of materials, clothing, or tools supplied by the employer.
- \* Dues or membership fee to any organization (such as a union), if you agree.
- \* For loss or damage to tools, materials or other property caused by your neglect.
- \* Anything else you agree on such as transportation, housing etc.
- \* 25% of your wages when still undergoing medical treatment, due to an injury at work.

He may not deduct for:

- \* Bad or negligent work
- \* Payment to obtain or retain employment
- \* Medical bills if you are injured at work.

You are entitled to know what has been deducted from your wages. Read your wage slip carefully.

You are entitled to be paid in money rather than in food or any other product, unless you agree in writing to be paid part of your wages in kind.

If you are doing the same job as a man, you are entitled to the same amount of money.

If your employer fails to pay you wages which are due, you are entitled to recover these wages. You should first tell your employer of your complaint, and report it to the Works Council.

If this does not help, then contact one of the groups listed on page 1.

You may also be entitled to overtime wages. Check with the Works Council Representative.

### DISMISSAL

If you have done one of the following things, your employer is entitled to dismiss you:

- \* If your conduct or work performance is bad, but only after written warning.
- \* If you wilfully damage property at work.
- \* If you are careless and this carelessness endangers other workers.
- \* If you reveal secrets of the business.
- \* If you are absent more than 3 days in 30 without permission or a medical certificate.
- \* If you fail to follow safety measures (many employers post safety guidelines, so check these rules).
- \* If you are committed to prison.

Whenever your employer tries to discharge you, you are entitled to tell your side of the story. You must be given a chance to explain your behaviour. If you need help, contact your Works Council, the Labour department or your union.

Even if you are dismissed for one of the reasons above, you are entitled to notice or payment of wages in place of notice.

- \* If you have worked 3 months or less (after probation) then 1 week's notice.
- \* If you have worked 3 to 12 months, then 2 weeks or 2 days for each completed month; whichever is greater.
- \* If you have worked more than one year, then 4 additional days for each completed year after the first year.
- \* IF YOU ARE PAID MONTHLY OR FORTNIGHTLY, then you must have at least one month, or one fortnight's notice.
- \* You are entitled to this notice or payment, and if you do not receive it, you should contact the Labour Department or your union and you may take the employer to court.

If your employer dismisses you for any other reason than those listed above, then you are entitled to notice or payment in place of notice AND ALSO TO SEVERANCE PAY.

He must give you 10 days pay for each year other than the first year you worked for him.

Your employer may NEVER dismiss you for any of the following reasons:

- \* Because you have participated in any organization outside working hours, or with your employer's permission, within working hours (for instance, for being a member of a union).
- \* Because you are a worker's representative or are seeking to be one.
- \* Because you complain in good faith that your employer has broken the law or breached your contract.
- \* Because of your race, colour, religion, marital status, sex, national origin, tribal or clan extraction, political affiliation or social status.

If your employer tries to dismiss you for any of these reasons, he has dismissed you UNFAIRLY and you may file a complaint with the Labour Department and take him to court.

If you become sick or disabled, your employer may not dismiss you but must offer you another job which you are able to perform, unless he proves that there is no such employment available.

If you are absent from work due to illness for less than 6 months, or absent due to an injury arising out of your employment, your employer may not dismiss you unless he can prove that it was necessary to replace you permanently at the time.

### PROBATION

Your employer may hire you on probation at first. While you are on probation, you may be fired without notice.

### QUITTING

If you wish to quite your job, you must give your employer at least 2 week's notice. You may ask for your Graded Tax card, proof of your Provident Fund contributions, and a green Income Tax slip which shows how much tax you have paid. Your next employer will need these. You may also want to ask for a certificate of employment stating name, dates of employment and position held. Chec to make sure you have been paid for any leave outstanding.

### RETIREMENT

Your employer may also dismiss you when you are too old to work, or at normal retirement age. See Provident Fund item which follows.

## RETRENCHMENT

Your employer may only retrench workers under certain conditions and, if he has the approval of the Labour Department. He must give one month notice or payment in place of notice as well as redundancy payments of 10 days pay for every full year past the first year that you worked for him.

If your employer fails to make this payment you should contact the Labour Department and you may take him to court.

## SICK LEAVE

After you have worked for 3 months continuously for your employer, you are entitled to 14 days sick leave on full pay and 14 days on half pay. To be paid, you must give your employer a medical certificate from your doctor.

## ANNUAL HOLIDAYS

After working for 12 months for your employer, you are entitled to 2 weeks paid holiday leave, unless you have been absent for more than 36 days not on sick leave, maternity leave or other approved leave.

## MATERNITY LEAVE

You are entitled to maternity leave:

- \* If you have been in continuous employment of your employer for 12 months or more.
- \* If you have a medical certificate or other evidence of pregnancy.



You may take maternity leave for as long as 12 weeks, but only 6 of those twelve weeks may be before giving birth.

You may take less than 12 weeks maternity leave unless it is a written condition of your employment that you must take leave.

If you become ill because of your confinement, you may take 6 more weeks as leave.

### YOUR JOB IS PROTECTED WHILE YOU ARE ON MATERNITY LEAVE

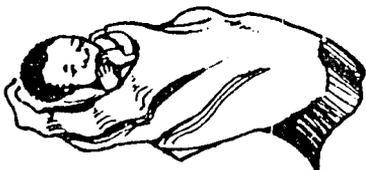
Your employer may not discharge you during your leave or between the time you give him the medical certificate and you take your maternity leave.

Your employer may not discharge you because you are pregnant.

After maternity leave, you are entitled to continue in your former work or equivalent work without loss of seniority or lower wages or less advantageous conditions.

Your employer need not pay you while you are on maternity leave.

Maternity leave is an important way of allowing your body to recover after giving birth. It is also a very important time to spend with your new baby and to catch-up on the sleep which you badly need. This rest period also allows you to breastfeed your baby full-time. We encourage you to take the full maternity leave allowed so that you and your baby will remain healthy.



## CHILDCARE

Your employer may allow you to bring your new-born infant to work with you so that you can continue to breastfeed. This is very important, since breastfeeding is the very best and most healthy way of feeding your baby. It will also save you a lot of money because artificial milk is very expensive. Ask your employer whether you may set up a crèche at your workplace. You will need the following:

- \* Clean, well-ventilated room, near to toilet facilities.
- \* A child minder.
- \* Blankets and toys for the babies.
- \* Easy access to the room so that you can breastfeed during your breaks.



Remind your employer that he can claim a tax deduction for any money he spends in helping you to set up the crèche or if he helps to pay the child minder.

JUST 6 MONTHS OF BREASTFEEDING WILL MAKE A BIG DIFFERENCE TO YOUR CHILD'S HEALTH.

## DISCRIMINATION

You are entitled to be paid the same amount of wages as a man is paid if you do the same work he does.

Your employer may not discriminate against you because you are a woman.

He may not dismiss you because you are a woman.

He may not dismiss you because you are pregnant.

You are entitled to the same facilities, jobs, opportunities, promotions etc. that a man is.

If you think you are being discriminated against, call one of the groups listed on P.1.

### DOMESTIC EMPLOYEES

You are not required to work more than 8 hours in any day.

You need not work more than 48 hours in any week and one day in the week must be free of any work.

You need not work longer than 4½ hours without a break of at least one hour.

After 3 months working for an employer, you are entitled to 12 working days paid leave.

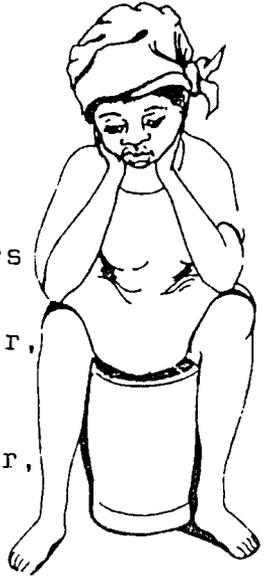
After 3 months working for an employer, you are entitled to 13 working days paid maternity leave and the rest (up to 12 weeks without pay).

If your employer requires you to work on a public holiday, you must either be paid double wages or you must be granted another day off on full pay.

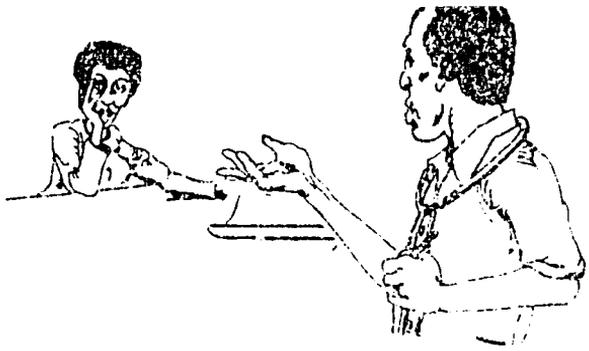
If you work more than your normal work hours, (8 hours, or as agreed between you and your employer), then you must be paid overtime at 1½ times your normal wages. For example, if you are paid E0.50 per hour, then E0.75 should be earned for overtime.

Where your employer provides the accommodation, it must be provided free of charge.

An employer is not allowed to deduct more than E22 per month for food rations. (This should be an agreement made in writing).



## WORKMAN'S COMPENSATION



If a worker falls sick or has an accident at work, she can get some money. If a worker dies, then her dependants can get money. If a worker needs medical treatment for injuries arising out of work, then her treatment will be paid for.

### Who can get Workman's Compensation?

Almost every person who works for another person is covered by the scheme, including Government workers, agricultural workers and casual workers if engaged for the trade or business of the employer. Domestic workers, out-workers, family workers and members of the Umutfo Defence Force are not covered.

### How do I get the money?

You or someone acting for you must notify your employer of the accident as soon as possible. It is best to give notice of this accident in writing.

Then you must get a Workman's Compensation form at the Revenue Office or at the Labour Department. After you fill out the form, you will see a doctor who will say how bad your sickness or injury is. Then the Labour Department will decide how much money is owed to you. Your employer or his insurance must pay you that money.

If you disagree with the doctor's decision, you may complain to the Labour Department and ask the Medical Board to decide whether the doctor's decision was right. If you are still unsatisfied you may appeal to the Industrial Court.



## PROVIDENT FUND

The Provident Fund provides money to workers who cannot work any more because of age, injury or sickness. It also provides money to a worker's family when she dies, and for a worker who leaves Swaziland permanently.

You may collect money if:

- \* You are over 50 and no longer work
- \* You cannot work any more (permanently) because you are sick
- \* You cannot work (permanently) because you are disabled (whether or not the disability was caused by an accident at work)

You may not collect money:

- \* Because you cannot find work
- \* Because you no longer want to work
- \* Because you are changing jobs

You only get money when you stop working altogether.

Your employer may deduct part of the cost of the Provident Fund from your wages. The employer pays the rest. As much as E10.00 per month may be deducted.

Even seasonal and temporary workers are covered by the Provident Fund.

You can collect the money by applying to the Provident Fund offices and filling out certain forms. The workers there will help you fill out the forms properly.

## INCOME TAX

Your Income Tax is usually deducted from your pay cheque (P.A.Y.E.). Each year you must file an income tax return. The Income Tax Department will then determine how much tax you owe. If you are married, your income and your husband's are considered as one, for income tax purposes. If you have paid too much tax, the tax rebate will be sent to your husband. Deductions for your children will be made from your husband's tax. If you and your husband do not share household expenses, or if there is some other reason you prefer not to be taxed jointly, then you can apply to the Income Tax department for separate assessment.

## WORKS COUNCIL

A Works Council is a small group of employees and representatives of your employer. The purpose of the Works Council is to solve problems which arise between employer and employee.

If you have a problem with your work, you should contact the Works Council.

Every establishment employing over 25 people must have a Works Council. If yours does not, ask your employer why not, or contact the Labour Department.

## TRADE UNIONS

Trade Unions are workers' organizations which negotiate for better conditions in work places and to improve the lives of workers in society. It is much easier for workers to resolve their problems with their employers when they are a group. Similarly, most employers find it easier to discuss matters with a worker's representative than to talk to each worker individually.

Industrial unions are legal in Swaziland, and encouraged by the laws of Swaziland. They are just beginning to organize themselves. The law protects your right to organize into industrial unions. You may not be fired because you join or organize a union. If your employer tries to fire you because of union activity, you may take him to the Industrial Court.

If you want to know more about unions at your workplace, contact the Labour Department or the Swaziland Federation of Trade Unions.

### CONCLUSION

It is important that you know your rights as a worker and as a woman.

Talk with your employer and your Works Council about special rules at your workplace. You may even be entitled to more than this booklet says. Don't be afraid to ask for what the law says you are entitled to.

Remember too, that before you take on a new job, be certain you know what the conditions are. Do not sign anything before reading the contents. If you can't read, ask a friend to read it to you.

The Employment Laws have been created to protect both the employee and the employer. Make sure you understand them.